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MAYOR EDSON'S CHARTER

AND

THE DEMOCRATIC PRINCIPLE.

[FROM BRADSTREET'S JOURNAL.]

NEW YORK:
BRADSTREET PRESS.
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PREFACE.

Mayor Edson has sent to the Legislature at Albany the draft of a charter which would practically combine in the mayoralty the legislative (or taxing) and executive (or disbursing) power. Such a plan would amount to getting rid of the Board of Aldermen. As it is proposed to dismiss the idea of a local legislature as a distinctive feature of local government, it is well to note at this time how far the pendulum has swung in fifty years as regards the transfer of the seat of government from New York city to Albany. To this end I have reproduced in the following pages an article written in the spring of 1881 on the Charter Convention of 1829–30. It is thought worth while to direct attention thereto at this juncture. The additional articles serve to bring more clearly into relief the contrast of fifty years. The people of New York city are as well fitted for governing themselves now as in 1829, save as through disuse, they have become strangers to the real work of local government.

WILLIAM F. FORD.

Editorial Rooms of Bradstreet's Journal,
279 *Broadway, February* 24, 1883.

Mayor Edson's Charter

AND

THE DEMOCRATIC PRINCIPLE.

THE GOVERNMENT OF NEW YORK CITY IN 1829 *AND NOW.*

[From Bradstreet's Journal, April 30, 1881.]

The following was written in the spring of 1881, when New York was suffering from neglected streets, with an absence of definite responsibility therefor:

With the fairly unanimous voice of the city appealing for relief from fever-breeding compost heaps to so-called legislators who place the needs of their political followers above the welfare of the general public, the time is opportune for setting forth the opposite experience of a half-century ago, in order that we may clearly understand how far the pendulum has swung in fifty years. To do this is exceedingly practical, as, in order to effect thorough reform, it is first necessary to understand fully the magnitude of the work to be done.

Early in 1829 it had come to be notorious that the city charter of 1730 was seriously in need of amendment; and this although, as Chancellor Kent observed, the old charter was entitled to "respect and attachment for its venerable age, and the numerous blessings and great commercial prosperity which had accompanied the due exercise of its powers." At the date named, as will be seen, the very wholesome opinion that the Albany Legislature should not meddle with the city's affairs until petitioned for a redress of grievances by the city's immediate representatives or the people themselves, had not lost its potency.

Therefore, when existing evils became unbearable, the people looked first to the Common Council to take action calculated to induce the law-givers at Albany to enact the desired amendments to the charter. It soon became evident, however, that the aldermen, allured by their emoluments, would not take the initiatory save under strong coercion. They talked of vested rights, and asserted that the charter could not be amended in the direction of giving more power to the people without the consent of the individuals constituting the corporation. No sooner had the dogged refusal of the aldermen become generally known than a public meeting of citizens was called. On April 24, 1829, the first of these meetings was held. From the contemporary reports of the meeting, and the accompanying circumstances, it is plain that the spirit which makes municipal institutions successful was then in full vigor in New York. At this first meeting a committee of three from each ward was created, and afterward, on May 1, a second general meeting was held. At the second meeting it was laid down that the Common Council should take action looking to a city convention, comprising delegates from each ward, to consider the situation and propose amendments to the charter. One of the resolutions is worth recording:

> *Resolved*, That the calling of a city convention is the proper mode of revising the charter and discussing the merits of the amendments which may be proposed, and that the measure is imperiously required to relieve the citizens from the evils to which they have so long submitted under the present form of our city government.

This formulation of public opinion was sent to the Council, and, after reference to a committee, that body was compelled to yield. On June 1 conclusive action was taken preparatory to holding an election for choosing delegates to the contemplated city convention. This election, which took place on June 9, was characterized by the *Evening Post* as unexampled, and that said election was "more interesting and important to the inhabitants" than any that had occurred since 1686. In selecting delegates the electoral machinery was employed in the usual manner. Five delegates were elected from each ward, and among them were men of marked talent, sagacity and high character. *In relation to the local needs they constituted a constitutional convention.* Gulian C.

Verplanck was a delegate. William Paulding was chosen president. The delegates met for business on June 23, and continued in session with brief intervals of adjournment until August 3, when, the proposed amendments having been formulated, an adjournment until the third week in September was effected, *avowedly that the people might have time to consider and speak of the wisdom of the amendments before final action by the convention.* Thus the sanction of the people was constantly in the foreground. The changes proposed mainly related to a division of the Common Council into two chambers; to the creation of various executive departments in order that councilmen might be relieved from executive responsibility; to the exclusion of councilmen from lucrative city offices, etc.

The convention reassembled on September 21. By this time it was manifest that the amendments had the hearty approval of the people. Until their approval, certainly expressed, could be had, it was not presumed that conclusions in the proper sense had been reached. In the words of a member of the convention, there "never was a body more fully representing the people" than did this convention, but it was none the less thought necessary to return to the people for their critical judgment. A deep interest was aroused in the final deliberations of the delegates. The *Evening Post* remarked: "the eyes of the public are fixed upon them; their doings are the subject of general conversation." The convention and its work were thus characterized: "The delegates to this body were chosen without regard to party, with a liberality and magnanimity highly creditable to the city and to the dominant party. The business is to settle a charter in which the interests of the citizens, and not the interests of a party, are to be provided for. *The least admixture of party considerations, whether in the house, or out of it, in the public journals, is a profanation of the subject.*" Again, when it was feared that the Common Council would refuse to submit the pending amendments to the voters: "The contest is one between the corporation and the people. The corporation find the abuses of the present charter convenient; the people find them oppressive, and if defeated now will, on further reflection and better information, abolish

them." Finally, near the end of September, the convention agreed to the amendments, and prepared an address to the public, in which it was recited that the delegates had become more and more impressed with the magnitude of New York's interests and concerns. It was set forth that the work of the convention had been performed with "an eye single to the finally agreeing upon such amendments as might prove acceptable to a majority of our constituents, and when adopted would protect private rights and promote the general prosperity." The address was signed by about four-fifths of the delegates.

At the regular November election following, the work of this convention, which they themselves had brought into existence, was submitted to the voters of New York for approval. Not until their sanction had been obtained was it deemed proper to ask confirmation of the amendments by the Legislature at Albany. By a majority of nearly two to one the approval of the people was given, a separate box having been provided for the special balloting. On April 7 of the following year the amendments, as sanctioned by public opinion, *were given the force of law by the Legislature, without material alteration.*

The contrast afforded by the lapse of half a century is full to the utmost of instruction. After the voters of 1829 had formally approved the acts of their delegates, the *Evening Post* thus strikingly summarized the work done: "The sanction which the people have given to the new charter is of the most complete and perfect nature. The Common Council very properly referred the whole work to them. The citizens elected their delegates in the several wards; the delegates met under the eyes of the citizens and debated at great length the alterations proposed. In the meantime the expediency of these alterations was freely discussed in conversation and the public prints, and finally, after sufficient time had elapsed to allow the minds of the members, and the public mind also, to come to a mature and judicious conclusion, a form of city government was adopted by the convention with remarkable unanimity and amid evident tokens of public satisfaction. This form of government has been submitted to the people, and they have ratified it."

It is not possible to find a more pointed illustration of the free working of the democratic principle than exists in the above recital of facts. Delegates selected by the people formulated amendments to the charter, which were, as a matter of course, sent back to the people for criticism and approval before being sent to Albany to be enacted into law. *The action of the Legislature was only to register the formally expressed will of the people of New York city.* To-day the opinion of their successors is not received at Albany with decent respect. In seeking to explain the proximate causes of this revolution in methods, it must be confessed that the departure from the principle of local self-government has come about largely through the yearning of the people themselves to secure some ingenious contrivance which would relieve them of the expenditure of the thought and energy necessary to carry on local government successfully under the free play of the democratic principle. To prove this one needs but to examine the files of New York city newspapers for the decade preceding 1860. Owing to the primary indifference of the people and the official demoralization consequent upon the abuse of the unguarded power to borrow money, a demand arose for the adoption of methods which would do away with the crudities of the aldermanic legislature. In response, the remedy came from that other Legislature at Albany in the shape of boards and commissions.

The sorry results need not be recounted. The remedy, so far as an efficacious remedy is possible, should be plain as the sun at noonday. The democratic principle in its entirety should be reëstablished in New York city. Along with this a demand should arise for securing a continuance of the reform indicated through imbedding it in the constitution of the state. But it should not be thought for a moment that to reinstate representative government in New York city will act as a specific for present evils. Not at all. Government is a matter of practical business, and he who offers a specific in politics is a quack. The City of New York is just now suffering from quackery of the worst sort. The democratic principle should be restored to New York city, simply as the best thing obtainable, not as a cure-all.

MAYOR EDSON'S PLAN.

[From BRADSTREET'S JOURNAL, February 10th, 1883.]

Mayor Edson has sent to Albany the draft of a new charter for the City of New York. This he has done in response to a resolution of the Assembly asking what legislation is necessary in order "to economize, simplify and improve the local government of the City of New York." The bill of Mayor Edson provides for single heads for all departments of the city government except the Board of Education. The sole power of appointment and removal is vested in the mayor, and removals may be made by him whenever he deems that the best interests of the city require such action. New York city's charter question comes up annually now at Albany. The introduction of this or that bill is of little importance save as it affords opportunity to set forth afresh the principles which should obtain in any legislation affecting generally the government of New York city. As is widely known, the seat of government of the city is now at Albany, but the immediate power of taxation and appropriation is vested in a Board of Apportionment, so called, consisting of the mayor, the controller, the president of the Board of Aldermen, and the president of the Department of Taxes and Assessments. This board fixes the tax levy and apportions it among the different departments. To this board the city council or Board of Aldermen acts as a sort of advisory committee. It is directed by the law that the estimates shall be submitted to the Aldermen for criticism, but the Board of Apportionment has the power to ignore any and all objections received.

Now it so happens that in the charter proposed by Mr. Edson, the mayor is clothed with the power to remove and appoint at will a majority of this Board of Apportionment. It follows that were such a charter to become law the mayor would comprise in himself both the taxing and disbursing powers of the city government. Such a scheme violates all recognized principles of government. It would give the city a mayor with absolute power as an executive, and through this an absolute control over the purse. It is surprising that Mr. Edson

should propose amendments to the charter making such a transformation. If the mayor of New York city is to be made a responsible executive officer, with power of appointment and removal (as should be done), then the city council should be given control of the purse. Nearly every city in the country is injured by a confusion of the executive and legislative functions. This confusion may be traced to the fact that in earlier days, when our cities were small, there was so little to do that practically no harm resulted for the time being through members of a town council performing both executive and legislative functions. When Mr. Edson proposes a charter for simplifying and improving New York's government, he should take care to erect a legislative check not dependent for its existence on the will of the mayor.

THE EVENING POST ON NEW YORK CITY'S GOVERNMENT.

[From BRADSTREET'S JOURNAL, February 17, 1883.]

In discussing last week the new charter for New York city, sent to Albany by Mayor Edson, we pointed out that under such a law both the legislative and executive authority would be vested in one man—the mayor. As is generally known, the Board of Apportionment, which is made up of certain executive officers, constitutes the real legislature of the city; that is to say, the taxing power. By the proposed charter the mayor would appoint the officers constituting said board, thus centering in himself, as stated, both the legislative and executive authority of the city. During the week the daily journals of the city have busied themselves in extracting interviews from prominent citizens, giving their opinions as to the expediency of the measure. So far as we have seen, very slight account has been taken of the full meaning of the proposed legislation which is to entirely do away with such a thing as a local legislature; to put away altogether the representative body once honorably known as the Common

Council of the City of New York. On Tuesday the Board of Aldermen, who have little more authority left them than that of formulating and adopting futile resolutions, protested against the proposed charter for the reason, among other things, that it would "deprive the legislative department of the municipality of the last vestige of power which a series of usurpations has left it." Barring some idle declamation which enters into the resolutions, their soundness is, or should be, unquestioned. Instead, however, the *Evening Post* endeavors to characterize the resolutions as merely proceeding from a desire of the Board of Aldermen to retain their hold on such patronage as they now control. The *Evening Post* of Thursday says:

> To any one who lives in New York, or is familiar with the actual working of the government of the city, the idea that the Aldermen represent a fundamental principle of government is so absurd that the resolution has attracted little but derisive attention from the press here. The fact is that when we talk of "local self-government" of cities in modern times, what we mean is not local legislation, * * * but simply the management of the business interests of the corporation. Local self-government does not involve the idea of legislation at all. The only part of the government which is or can be local is that which relates to making streets, to paving, lighting and mending them; to supplying the inhabitants of the city with water, building docks and piers, laying out and maintaining parks, and *to raising and disbursing the money required for these purposes.*

It is necessary to once more direct attention to the manner in which the seat of government of New York was gradually removed from the city to Albany. When through the demoralizing influence of the credit system and the deficient interest on the part of the people in the conduct of local affairs the conduct of city business became notoriously bad, certain wise people thought to check the resulting evils by securing from Albany certain devices in the shape of boards and commissions. This was in the years preceding 1860. The point of departure in the removal of the seat of government to Albany is perhaps best marked by the passing of the Metropolitan Police bill of 1857. The sentiment of the time is illustrated by the opinions of leading journals. On February 18, 1857, the *Evening Post* thus concluded: "As a general rule, the more municipal officers we have

the more heavily we are taxed and the more lavishly our money is spent." The general tone of that journal, which now seeks to make merry at the idea of a responsible Board of Aldermen, from the beginning of 1857 to the first months of 1858, was one of impatience and disgust at the crude working of the city government and an avowed preference for patent devices at the hands of the Legislature. On February 25, 1858, the *Evening Post* said: "The way to give popular sovereignty to the City of New York in reference to all minor local affairs, paradoxical as it may appear, is to take it away; in other words, vest it in the governor and Senate, who would be capable of appreciating the needs of our people, and who would be disposed to give proper heed to their complaints." This in 1858. The demands of the *Evening Post* were carried out. The City of New York was made a dependency of the governor and Senate at Albany. The results are known of all men. But now, instead of profiting by past errors, the *Evening Post* and those for whom it speaks would do away entirely with the notion that a local population of 1,200,000 stand in need of anything in the nature of a representative body as the distinguishing feature of its government. It is proposed to abolish the Board of Aldermen entirely. For perhaps the first time it is announced that the levying of taxes is not an act of legislation. The highest symbol of sovereignty is the right of taxation and appropriation. The growth of legislative power has been mainly due to the necessity of submitting questions of taxation to representatives of the people. The direction of New York city's affairs necessarily involves acts of legislation. The *Evening Post* would do away with local legislation and obtain everything of the sort from Albany. Its position is but one remove from advocating the appointment of an autocratic mayor of the city by the governor. As opposed to this, the true position is to advocate giving full executive authority to the mayor, while returning to the local legislature the power of taxation and appropriation. This done, responsibility could be fixed. Under the system which the *Evening Post* recommended in 1858 responsibility has been lost.

THE MAYORALTY AND THE TAXING POWER.

[From BRADSTREET'S JOURNAL, February 24, 1883.]

The New York *Evening Post*, in referring to our remarks of last week on Mayor Edson's charter, has this to say:

"BRADSTREET'S, in discussing the charter, declares that we are all wrong about the aldermen, and that they are needed as a city legislature to raise taxes, while the mayor ought to have full executive authority. In other words, it adopts to that extent the view of the aldermanic sages themselves, and wishes us to return to the government of the fathers, with its three coördinate departments of government, each independent in its own sphere, etc., etc. Curiously enough, it points out, in the course of the same article, that the aldermen have no real taxing power now; the function of fixing the limit of the annual levy being lodged with the Board of Apportionment, an executive body. The fact is, that the taxing power was taken away from the board some years ago, because experience showed that they could not be trusted to exercise it, and whatever else may happen, we venture to predict that it will never be restored to them for the sake of political symmetry. BRADSTREET'S adds that "the *Evening Post* would do away with local legislation and obtain everything of the sort from Albany. Its position is but one remove from advocating the appointment of an autocratic mayor of the city by the governor." On the contrary, what we want is to do away with perpetual changes in the government of the city from Albany, and give the governor just as little power over municipal affairs as the president has."

The views of BRADSTREET'S regarding Mayor Edson's proposed charter were set forth before the resolutions of the Board of Aldermen were given to the public. To this extent we have "adopted" their conclusions. But we do not know that sound views regarding this local government question are any less sound in having the approval of the New York aldermen. BRADSTREET'S clearly understands that the right conduct of city business in New York does not turn upon any question of "symmetry" or of "coördination." As we have given utterance to nothing of the sort it is entirely gratuitous on the part of the *Evening Post* to attribute to us the commonplaces of the books. Government is a matter of practical business. A wise direction of city business is, indeed, as much a matter of accounting—of well-defined balance sheets—as of anything else. There are, therefore, as yet very few acknowl-

edged general principles in relation thereto. One of these, however, should everywhere be recognized as thoroughly established, namely, that the taxing and appropriation power should be distinct from the executive or disbursing power. The talk as to whether the conduct of city business is legislation or not is for the most part beside the question. It is necessary to deal with things rather than names. Thus, a confused writer in the *Evening Post* this week ridicules the idea that there is legislation, while stating that the "voting of taxes" is a "legislative function." As the one main thing which the city authorities have to do is to levy taxes and appropriate the proceeds thereof, it would seem that a good part of the work is distinctly "legislation." The writer referred to thus states the question in hand: "The real problem of the day in regard to the amendment of the city charter is to secure an efficient local administration coupled with a proper exercise of the sole local legislative function, taxation." To this end he would have a board of assessors elected by the people, who would, with the mayor and controller, constitute the taxing power.

But here is a most serious confusion of responsibility. The mayor and controller are, or should be, executive officers only, and should have nothing to do with the levying of taxes, save as the mayor is clothed with the veto power. The simple truth is that there is no satisfactory way out of the jangle save to return to the Board of Aldermen the taxing power which was taken from them through the advice of political quacks. Properly understood, the composition and character of the present Board of Aldermen is apart from the real point involved. Local government in New York broke down, in the main, through the demoralizing effect of a loose credit system. When speedy remedies were sought the first thing that occurred was to minimize the local legislature by taking from it the power of taxation and appropriation.

The thing to do now is to undo what has been done. First give to the mayor the executive power which must go with true executive responsibility; return to the city councils the power of taxation and appropriation under the condition that the city is to do no more borrowing; that instead it should do an exclusively cash business under a

system of rigid accounting. Tweed, it should be remembered, borrowed, for the most part, the stolen millions. If he had been getting them in exchange for tax receipts the eminent citizens who said good things of him would have better understood what was going on. The above points acknowledged, all else is for the most part a question of detail. We believe that in the end the local legislature of New York city will receive back its powers. It is to be hoped that before that time comes the city will not have to pass through a period of still closer dependency upon Albany.